UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

        Plaintiff,

    v.   **Case No. 06-CR-326**

AARON S. ANDRACEK,

        Defendant.

ORDER GRANTING DEFENDANT'S MOTION FOR AN EVIDENTIARY HEARING

On December 12, 2006, the grand jury returned a single count indictment charging Aaron S. Andracek ("Andracek") with possession of child pornography in violation Title 18, United States Code, Section 2252A(a)(5)(B). Also included in the indictment was a notice of forfeiture.

On February 1, 2007, Andracek filed a motion to suppress statements and the fruits of a search. In his motion, Andracek requests an evidentiary hearing. Andracek argues that an evidentiary hearing is necessary to determine whether Andracek's statements and consent to the seizure and search of his computer were made voluntarily. Additionally, Andracek seeks to resolve whether or not the <u>Miranda</u> warnings were required. The deadline for proposed voir dire questions and proposed jury instructions is April 12, 2007, and a jury trial is scheduled to commence on April 16, 2007 before Chief Judge Rudolph T. Randa.

Having reviewed Andracek's motion and the accompanying affidavit of his attorney, the court agrees that an evidentiary hearing is necessary to resolve the defendant's motion. The parties,

however, failed to provide the court with an estimate of the amount of time needed for the hearing as required by Criminal Local Rule 12.3.

IT IS THEREFORE ORDERED that the defendant's motion for an evidentiary hearing is **granted**. The court shall conduct an evidentiary hearing on **March 5, 2007** at **9:30 a.m.** in Courtroom 254 of the United States Courthouse, 517 E. Wisconsin Avenue, Milwaukee, Wisconsin. The court has scheduled three hours of court time for this hearing. If either party believes that additional time is necessary to resolve this motion, the party shall promptly notify the court upon receipt of this order.

Dated at Milwaukee, Wisconsin this 7th day of February, 2007.

s/AARON E. GOODSTEIN
U.S. Magistrate Judge